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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **ALBERT S. ULIT aka ALBERT SARIAN**
13 **ULIT**

14 **1224 Myra Avenue**
Los Angeles, CA 90029

15 Registered Nursing License No. 452324

16 Respondent.

Case No. 2010 - 214

A C C U S A T I O N

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about March 31, 1990, the Board of Registered Nursing (Board) issued
24 Registered Nursing License No. 452324 to Albert S. Ulit (Respondent). The Registered Nursing
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on November 30, 2009, unless renewed.

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2 **JURISDICTION**

3 3. This Accusation is brought before the Board, Department of Consumer Affairs, under
4 the authority of the following laws. All section references are to the Business and Professions
5 Code unless otherwise indicated.

6 **STATUTORY PROVISIONS**

7 4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or
8 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
9 action during the period within which the license may be renewed, restored, reissued or
10 reinstated.

11 5. Section 490 provides, in pertinent part, that a board may suspend or revoke a license
12 on the ground that the licensee has been convicted of a crime substantially related to the
13 qualifications, functions, or duties of the business or profession for which the license was issued.

14 6. Section 2750 provides, in pertinent part, that the Board may discipline any licensee,
15 including a licensee holding a temporary or an inactive license, for any reason provided in
16 Article 3 (commencing with section 2750) of the Nursing Practice Act.

17 7. Section 2761 states, in pertinent part:

18 "The board may take disciplinary action against a certified or licensed nurse or deny an
19 application for a certificate or license for any of the following:

20 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

21

22 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
23 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
24 Act] or regulations adopted pursuant to it.

25

26 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
27 functions, and duties of a registered nurse, in which event the record of the conviction shall be
28 conclusive evidence thereof. . . ."

1 8. Section 2764 provides, in pertinent part, that the expiration of a license shall not
2 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
3 to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the
4 Board may renew an expired license at any time within eight years after the expiration.

5 9. Section 2765 states:

6 “A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
7 charge substantially related to the qualifications, functions and duties of a registered nurse is
8 deemed to be a conviction within the meaning of this article. The board may order the license or
9 certificate suspended or revoked, or may decline to issue a license or certificate, when the time
10 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an
11 order granting probation is made suspending the imposition of sentence, irrespective of a
12 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person
13 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
14 of guilty, or dismissing the accusation, information or indictment.”

15 REGULATORY PROVISIONS

16 10. California Code of Regulations, title 16, section 1444, states:

17 “A conviction or act shall be considered to be substantially related to the qualifications,
18 functions or duties of a registered nurse if to a substantial degree it evidences the present or
19 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
20 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

21

22 “(c) Theft, dishonesty, fraud, or deceit. . . .”

23 COST RECOVERY

24 11. Section 125.3 provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licensee found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of Substantially Related Crime)**

3 12. Respondent is subject to disciplinary action under sections 490 and 2761,
4 subdivision (f), in conjunction with section 2765 and California Code of Regulations, title 16,
5 section 1444, subdivision (c), in that on or about February 17, 2009, Respondent was convicted of
6 a felonious crime substantially related to the qualifications, functions or duties of a registered
7 nurse which to a substantial degree evidence his present or potential unfitness to practice as a
8 registered nurse in a manner consistent with the public health, safety, or welfare, as follows:

9 a. On or about February 17, 2009, after pleading guilty, Respondent was convicted of
10 one felony count of violating Title 18, United States Code, Section 1347 [health care fraud; aiding
11 and abetting, causing an act to be done] in the criminal proceeding entitled *United States v.*
12 *Colgrove, et al.* (C.D. Cal., 2007, No. CR 07-389 VBF). The Court sentenced Respondent to
13 one (1) year of home detention, placed Respondent on four (4) years probation, ordered
14 Respondent to pay a special assessment of \$100, and ordered Respondent to pay restitution in the
15 amount of \$897,247.67. In addition, the Court ordered the following as terms of Respondent's
16 probation: (1) Respondent cannot be employed in any position which requires licensing by a state
17 agency, without the express approval of his probation officer; and (2) Respondent shall not work
18 as an owner, employee or in any other capacity in any medical clinic management business or in
19 any business which involves medical billing, without the express approval of his probation
20 officer.

21 b. The circumstances underlying the conviction are that on or between May 2003 and
22 May 2004, Respondent was employed as the Director of Patient Care Services at United Life
23 Home Health, Inc. (United Life), a home health agency located first in Santa Fe Springs,
24 California, and later in Rancho Palos Verdes, California. Respondent knowingly participated in a
25 scheme to defraud Medicare, with Lualhati Colgrove and other employees of United Life, in
26 which United Life knowingly: (a) billed Medicare for patients who were not homebound or
27 otherwise did not qualify for Medicare home health services, (b) billed Medicare for services that
28 were provided by unlicensed nurses, and (c) created false medical records to support false claims

1 submitted to Medicare. To further effectuate the fraud, Respondent at various times would
2 complete nursing notes and billings as a registered nurse for staff members of United Life who
3 were unlicensed and who performed home health visits to Medicare patients. Medicare paid
4 United Life approximately \$877,377.39 for patients who were visited by unlicensed nurses, and
5 paid an additional approximately \$19,870.28 for patients for whom Respondent signed falsified
6 nursing notes for visits he did not make.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct)**


9 13. Respondent is subject to disciplinary action under section 2761, subdivision (a)
10 and/or (d), in that Respondent committed acts of unprofessional conduct and/or violated
11 provisions of the Nursing Practice Act. Complainant refers to and by this reference incorporates
12 the allegations set forth above in paragraph 12, a and b, inclusive, as though set forth fully.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Board issue a decision:

- 16 1. Revoking or suspending Registered Nursing License No. 452324, issued to
17 Respondent Albert S. Ulit;
18 2. Ordering Respondent Albert S. Ulit to pay the Board the reasonable costs of the
19 investigation and enforcement of this case, pursuant to section 125.3; and
20 3. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 10/20/09


23 LOUISE R. BAILEY, M.Ed., RN
24 Interim Executive Officer
25 Board of Registered Nursing
26 Department of Consumer Affairs
27 State of California
28 Complainant

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